

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ORDER

Before the Court are the motions to dismiss filed by DriverTech LLC (Doc. 181), and by PeopleNet Communications Corp. (Doc. 182). Both motions seek an order dismissing the parties' respective amended complaints against R&L Carriers without prejudice, pursuant to Fed. R. Civ. P. 41(a)(2). The motions also request entry of final judgment on R&L's counterclaims for patent infringement.

As outlined in the pending motions and in this Court's prior orders in this case, DriverTech and PeopleNet filed non-infringement declaratory judgment actions against R&L, following receipt of cease and desist letters. R&L filed infringement counterclaims against both DriverTech and PeopleNet. On July 15, 2010, this Court entered an order dismissing R&L's

counterclaims against DriverTech, PeopleNet, and four other defendants (ACS, Intermec, Microdea and Qualcomm) with prejudice. (See Doc. 162, July 15, 2010 Order) Final judgments have been entered in the latter four cases, and R&L has filed notices of appeal.

DriverTech and PeopleNet now move to dismiss their complaints without prejudice, to permit entry of final judgment in their cases. DriverTech and PeopleNet note that since R&L's infringement counterclaims against them have been dismissed, their declaratory judgment claims are essentially moot. Permitting them to dismiss their complaints without prejudice, followed by the entry of final judgments in those cases, would avoid the possibility of piecemeal appeals of this Court's dismissal order to the Federal Circuit. While the cases have been pending for some time, minimal discovery has taken place, no depositions have been taken, and no trial date has been set.

R&L opposes both motions. (Docs. 186 and 187) It contends that granting these parties a dismissal without prejudice would permit PeopleNet and DriverTech to escape any consequences for their decisions to initiate litigation against R&L in their home districts. R&L offered similar arguments with respect to PeopleNet's and DriverTech's previous motions for leave to amend their non-infringement complaints. This Court rejected R&L's arguments, noting the lack of evidence that the complaints were utterly frivolous, or were filed in a court that plainly lacked jurisdiction. (See Doc. 161, July 15, 2010 Order at 8) The Court reaches the same conclusion with respect to PeopleNet's and DriverTech's pending motions.

In view of the dismissal of R&L's infringement claims and the pending appellate review of that order, the Court finds that granting both motions will serve the goals of efficiency and economy, and that R&L will not be unduly prejudiced as a result. Therefore, DriverTech's

motion to dismiss its second amended complaint (Doc. 181) is **granted**. PeopleNet's motion to dismiss its first amended complaint (Doc. 182) is **granted**.

Final judgments shall be entered forthwith in each of these cases.

SO ORDERED.

Dated: November 16, 2010

s/Sandra S Beckwith

Sandra S. Beckwith

Senior United States District Judge